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| 10/633,838 | 08/04/2003 | Brian Melgaard | MASCO 3.0-049 | 5258 |

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| EXAMINER |
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LUONG, SHIAN TINH NHAN

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| ART UNIT | PAPER NUMBER |
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3728

DATE MAILED: 08/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

SP

Office Action Summary**Application No.**

10/633,838

Applicant(s)

MELGAARD, BRIAN

Examiner

Shian T. Luong

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 4-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-13 and 20-23 is/are rejected.
- 7) ☒ Claim(s) 14-19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-2,4-5,7,9-13,20-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Baublitz et al. (US 5,622,258). Baublitz discloses a package for a product. The package has a front panel 14 configured to cooperate with the back panel 12 to form an enclosure and surround at least a portion of the main body to secure the product in the enclosure such that the handle is exposed so that a person can grip the handle of the product. The handle extends in a substantially vertical direction but is substantially transversely from the main body. The enclosure is in substantially the same shape as applicant's enclosure. The enclosure has an opening. The front panel and back panel are joined along at least one edge. The front panel and back panel each has a top portion, a bottom portion, a first side portion and a second side portion. The first side portion extending between the top and bottom portion and defining inner and outer edges and the second side portion having a cutout extending through a central portion thereof and substantially to the inner edge of the first side portion. The package also surrounds a tip portion of the product and a mid portion of the handle is unencumbered by the enclosure. The mid portion that is not encumbered is the area of the handle outside of the enclosure. The enclosure having a first space within the top portion for securing the body portion between first and second panel. A second space in the bottom portion between the first and second panels. A

third space is any space other than the first and second space between the first and second panels such as the space adjacent to the first space.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 8,22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seaton or Weatherford et al. in view of Official Notice. Although the base reference does not disclose a glue gun, it is notoriously known to place a glue gun in a package. It would have been obvious in view of Official Notice to store glue gun in the package of Baublitz et al. to allow the interactive display.

5. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Baublitz et al. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the carrier out of plastic transparent or translucent material, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

6. Claim 23 is rejected under 35 U.S.C. 102(b) as being anticipated by Seaton (US 5,279,417). Seaton discloses a package for a product. The package has a front panel configured to cooperate with the back panel to form an enclosure and surround at least a portion of the main

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body to secure the product in the enclosure such that the handle is exposed so that a person can grip the handle of the product. The handle extends in a substantially vertical direction but is substantially transversely from the main body. The enclosure is in substantially the same shape as applicant's enclosure. The enclosure has an opening. The front panel and back panel are joined along at least one edge. The front panel and back panel each has a top portion, a bottom portion, a first side portion and a second side portion. The first side portion extending between the top and bottom portion and defining inner and outer edges and the second side portion having a cutout extending through a central portion thereof and substantially to the inner edge of the first side portion.

The package also surrounds a tip portion of the product and a mid portion of the handle is unencumbered by the enclosure. The mid portion that is not encumbered is the area of the handle outside of the enclosure. Although applicant argues that part of the middle portion is covered by the enclosure and hence the claim is not anticipated, the claim never required that the entire middle portion not encumbered by the enclosure.

The enclosure having a first space within the top portion for securing the body portion between first and second panel. A second space in the bottom portion between the first and second panels. A third space is any space other than the first and second space between the first and second panels such as the space adjacent to the first space.

Allowable Subject Matter

7. Claims 14-19 would be allowable if rewritten to include all of the limitations of the base claim and any intervening claims.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Telephone inquiries regarding the status of applications or other general questions, by persons entitled to the information, should be directed to the group clerical personnel and not to the examiners. In as much as the official records and applications are located in the clerical section of the examining groups, the clerical personnel can readily provide status information without contacting the examiners, M.P.E.P. 203.08.


If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Erica Miller at (571) 272-4370.

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For applicant's convenience, the official FAX number is 571-273-8300. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify Examiner Luong of Art Unit 3728 at the top of your cover sheet of any correspondence submitted.

Inquiries concerning the merits of the examination should be directed to Shian Luong whose telephone number is (571) 272-4557. The examiner can normally be reached on M-H from 7:00am to 4:00pm EST. Applicant's supervisor Mickey Yu can be reached at (571) 272-4562 for urgent matters.

STL
July 27, 2006


Primary Examiner
Shian Luong
Art Unit 3728